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Home > Businesses > Help & Resources > Legal Library > Letter Rulings > Letter Rulings - By Year(s) > (1990-1994) Rulings >

Letter Ruling 94-4: Veterans' Organization Sale of Alcoholic Beverages

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July 21, 1994

I. Facts

You request a letter ruling on the application of Massachusetts General Laws Chapter 63A, Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages, to your organization, American Legion Post 183, a non-profit veterans' organization ("Post"). In addition to holding its own functions for members and guests only ("member functions") at which alcoholic beverages are served, the Post rents out a function room located in the Post's facility to local townspeople six to ten times per year for "non-member functions". The Post often sells alcoholic beverages at these non-member functions. If rental of the room involves the selling and serving of alcoholic beverages, the Post must apply for a liquor license according to the provisions of G.L. c. 138.

II. Discussion

Certain corporations, associations, and organizations that do not pay corporate excise but that do sell alcoholic beverages are subject to tax under G.L. c. 63A. General Laws Chapter 63A, section 2 imposes an entity level tax of one half of one percent of a taxpayer's gross receipts realized from the sale of alcoholic beverages. "Taxpayer" is defined as every corporation, association or organization which is licensed by any city or town to sell alcoholic beverages, except a corporation subject to tax under the provisions of G.L. c. 63 and a chartered veterans' organization maintaining quarters for the exclusive use of its members. See, G.L. c. 63A, § 1(c)(2).

If separate records are kept, the Post may treat its receipts from sales of alcoholic beverages at non-member functions as separate and distinct from receipts from such sales at its functions that are exclusively for members and members' guests. If separate records are kept, only the receipts from alcoholic beverages sold at non-member functions need be included in the measure of the excise under Chapter 63A. If records are not separately kept, receipts from all sales of alcoholic beverages by the Post are included in the calculation of the Post's Chapter 63A excise.

III. Member, Non-Member Function Examples

- 1) A veterans' fundraising event that is open to the public is considered a non-member function.
- 2) When the Post's function room is used as a reception site for a member's wedding or other such

function, the reception is considered a non-member function whether or not the member pays a fee for the use of the room.

3) When the Post's facility is rented or loaned out to another chartered veterans' organization for a function that includes only members of that organization and their guests, or combines members and guests of the two organizations, the function is considered a member function whether or not a fee is charged for the use of the facility.

4) When the Post's facility is rented or loaned out for a non-member function at which no alcohol will be sold, the calculation of the Post's chapter 63A excise, if any, is not affected.

5) If the Post has an auxiliary organization, such as a group comprised of the spouses of Post members, such auxiliary members are considered Post members and any auxiliary functions are considered member functions, for purposes of this ruling.

IV. Conclusion

If the Post rents or loans out its facility for non-member functions but keeps separate books and records of the sale of alcoholic beverages sold at member functions and non-member functions, the Chapter 63A excise is calculated on the basis of the gross receipts from the sale of alcoholic beverages sold at non-member functions only.

Very truly yours,

/s/Mitchell Adams

Mitchell Adams
Commissioner of Revenue

MA:HMP:rmm

LR 94-4